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OFFICE OF PETITIONS

In re Application of :
Arndt, et al. : DECISION ON APPLICATION FOR
Application No. 09/089,894 : PATENT TERM ADJUSTMENT
Filed: April 4, 2002 :
Dkt. No.: AUS9-2001-1032-US1 :
:

This is a decision on the "APPLICATION FOR PATENT TERM
ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b)" filed September 14,
2004.

The application for patent term adjustment ("PTA") under 37 CFR
1.705(b) is hereby **DISMISSED**.

Applicants request that the Determination of Patent Term
Adjustment be corrected from 439 days, as indicated on the
Determination of Patent Term Adjustment mailed August 16, 2004,
to an adjustment of 531 days.

An adjustment under 37 CFR 1.702(a)(1) of 439 days was accorded
for failure to mail at least one of a notification under 35
U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not
later than fourteen months after the date on which the
application was filed. In accordance with 37 CFR 1.703(a)(1),
the adjustment began June 5, 2003, the day after the date
that is fourteen months after the date on which the application
was filed, and ended August 16, 2004, the date the Notice of
Allowance was mailed.

Applicants, however, argue that the Notice of Allowance was
mailed November 16, 2004, notwithstanding the fact that the
instant application for patent term adjustment was filed
September 14, 2004. Presumably applicants have confused the
issue fee due date (November 16, 2004) with the mail date
indicated on the Notice of Allowance (August 16, 2004).

Accordingly, the period of patent term adjustment as of the date
of mailing of the Notice of Allowance is 439 days as indicated
in the Determination of Patent Term Adjustment mailed August 16,
2004.

The Office hereby acknowledges receipt of the required application fee of \$200.00.

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Karin Ferriter

Karin Ferriter
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for Patent Examination Policy